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M E M O R A N D U M

September 1, 1993

TO: David Clark, Acting Executive Director
Public Disclosure Commission

FROM: Roselyn Marcus
Assistant Attorney General

SUBJECT: Contribution Limit When Candidate Is Not On The Primary Ballot

You have recently been asked whether a candidate is still entitled to receive contributions, up to the \$500 contribution limit, for a primary election when the candidate will not appear on the primary ballot. This situation, although rare, can occur in special elections when only one candidate from each party has filed for a position. This situation is occurring in the 29th District, which is why this question has been asked.

If a candidate is not going to appear on the primary ballot, then the candidate is not entitled to receive contributions for the primary election. RCW 42.17.640(1) states in pertinent part:

No person, other than a bona fide political party or a caucus of the state legislature, may make contributions to a candidate for a state legislative office that in the aggregate exceed five hundred dollars or to a candidate for state office other than a state legislative office that in the aggregate exceed one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate.

Emphasis added. This provision, then, specifically requires that the candidate be on the ballot in order to receive contributions for that election. Therefore, if the candidate is not on the ballot, they cannot receive contributions for that election.

In addition, the definition of election in Initiative 134 also includes the provision as to appearing on the ballot. RCW 42.17.630(6) provides:

"Election" means a primary or a general or special election in which a candidate is on the ballot.

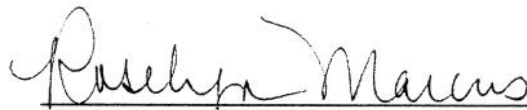
ATTORNEY GENERAL OF WASHINGTON

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September 1, 1993
Page 2

This provides further evidence that the intent of the initiative was only to permit contributions up to the stated limit for elections in which the candidate actually appears on the ballot.

Although this is a rare occurrence, it may be helpful to present this to the Commission at their September meeting. They can adopt an interpretive statement which can then be available for information and reference.

I am enclosing the letter from Paul Berendt to you concerning this issue. If you have any questions or wish to discuss this further, do not hesitate to call.

A handwritten signature in cursive script, reading "Roselyn Marcus", written over a horizontal line.

ROSELYN MARCUS
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